

# **Appropriating Policy: Constructing Positions for English Language Learners**

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## **Abstract**

In this ethnographic study, I investigate the ways in which students of Mexican descent who are designated as limited English proficient are “acquired” by particular social positions in a northern California high school. Focusing on two interrelated and reflexive phenomena in the high school—standardized testing for assessing English proficiency and instruction in English Language Development classes—I demonstrate how, through these institutional rituals and their associated discourses, positions for English language learners are constructed, maintained, and challenged. I examine the interactions of the teachers, staff, administrators, and students across various school settings to illuminate the practical implications of, for instance, being designated limited or fluently proficient in English. I suggest that second-language acquisition policy is appropriated with great variability across federal, state, district, and school levels, and I argue that through these courses of action, particular social fields and the positions for English language learners are defined locally as ones of “success” and more often “failure.”

## **Introduction**

To explain the patterns of low achievement among Hispanic–Latino<sup>1</sup> students in American schools, researchers have identified multiple factors: societal racism (Suárez-Orozco & Suárez-Orozco, 1997); generational, cultural, and economic reproduction (Ogbu, 1987; Ogbu & Matute-Bianchi, 1986; Suárez-Orozco, 1987); cultural mismatches between home and school (Delgado-Gaitan, 1987; Marcias, 1990); misperceptions about Latino parents’ values of schooling (Delgado-Gaitan, 1990; Valdés, 1996); spatial isolation and program marginalization (Valdés, 1999); and lowered expectations of teachers and less challenging curriculum for Hispanic–Latino students (Valdés, 1999). Recently,

analytic attention has been redirected to the institution of schooling to dismantle the myth of equitable education for Hispanic–Latino students. Scholars have demonstrated how educational policies and practices strip students of their culture and language (Valenzuela, 1999); how instructional arrangements lead to the underutilization of students’ “cultural resources” (Conchas, 2001; Moll & Díaz, 1987) and “social capital” (Stanton-Salazar, 2001; Stanton-Salazar, 2004); and how institutional structures demote peer-group identifications (Gibson, Gándara, & Koyama, 2004; Vigil, 2004).

Much scholarship focuses on second-language acquisition, and a growing body of literature highlights one of the most salient characteristics associated with students, their language (García, 1991), positioning language and literacy in individual students or particular “types” of students. Situated within a deficit model of language–socialization mismatch (Valdés, 1996; Wolfe & Faltis, 1999), such examination frames Mexican-descent students as “immigrants” and “foreigners” and measures their school participation, in part, by their use (or nonuse) of English.

Lately, educational scholars, along with politicians, have turned their interests to California, where one fourth of the K–12 students are identified by the state as limited in their English proficiency (Gándara, 2000). Eighty percent of these students speak Spanish (Gándara, 1997; Halcón, 2001). Traditionally, California has experienced high levels of immigration of Mexican natives and extensive demands for bilingual education, yet a series of propositions that promote the use of English and limit the rights of immigrants (many of whom speak Spanish as their native language) were passed during the 1980s and 1990s. In 1986, voters approved Proposition 63: English as the Official Language. In 1994, Proposition 187 made undocumented immigrants ineligible for public social services, including education; in 1996, Proposition 209, in essence, repealed affirmative action policies in state entities; and in June 1998, Californians approved Proposition 227, which essentially called for an end to bilingual education.

In the post-227 era, emphasis has been placed on studying the initial implementation of Proposition 227 and its effects on second-language acquisition programs and policy in California (Gándara, 2000). According to Sutton and Levinson (2001), these studies have focused on two ends of a linear model of process—literally, the beginning and the end—which reflects a general trend in public policy analysis. This tendency, one likely fueled by the preoccupation of locating the best method for teaching to English language learners (ELLs), leaves the development and ongoing implementation—or appropriation—of such policy largely understudied.

In this study, I begin to address this lacuna by interrogating the processes by which official language policy<sup>2</sup> creates structures that are institutionally interpreted and appropriated at the high school level. I look at the ways in which the second-language acquisition policy in California gets circulated

across various contexts in a particular high school where it is interpreted, applied, and challenged by teachers and students (Levinson & Sutton, 2001). I investigate how teachers, within the restricting organization of the school, take in or appropriate the federal, state, and district policy to delineate positions for ELL students to inhabit, as well as the ways in which students and teachers, together, negotiate and give meaning to these positions by selectively implementing chosen elements of the policy and excluding others. Specifically, I explore the relationships between policy appropriation and the experiences of Mexican-descent students who are designated as limited English proficient (LEP)<sup>3</sup> and attend English Language Development (ELD) classes.

I focus on two interrelated and reflexive phenomena in the high school—standardized testing for assessing English proficiency and instruction in ELD classes—to demonstrate how, in these institutional contexts, particular sociocultural positions for English learners are constructed. I argue that while the structure and organization of the official language policy and the school system make it theoretically possible for students to change positions, this is, in fact, almost impossible to achieve, given the borders created by the policy itself and the policy appropriation process. I posit that instead of “moving into” positions of English proficiency as prescribed by policy, students become “acquired” most often by the positions of “failure” created to capture those who are deemed to lack English proficiency. Even students who challenge or “resist” the processes, such as testing (e.g., the California English Language Development Test [CTB/McGraw-Hill, 2000]), through which the positions are defined, paradoxically become more firmly situated in their placements—and all of this can have very little to do with learning English.

### **Appropriating Policy for ‘Successful Failure’: Theoretical Perspectives**

Two distinct but complementary perspectives inform my investigation. Sutton and Levinson’s (2001) reconceptualization of policy as an ongoing social practice and Varenne and McDermott’s (1998) framework for examining “successful failure” place social relations at the center of analysis, recasting individuals not as separate analytic units but as integral and reflexive constituents of particular contexts and processes. In forming my perspectives, I draw extensively from the work of McDermott and Varenne (McDermott, 1987; McDermott & Varenne, 1995; Varenne & McDermott, 1998), who view “success” and “failure” as particular positions available for students to inhabit in American culture and suggest that “being acquired by a position in a culture is difficult and unending work” (McDermott & Varenne, 1995, p. 337). With regard to those who fail in school—those labeled “at-risk,” “deprived,” “disabled,” or “LEP”—the authors point to the power of culture to construct the problem: to create “failure,” to manufacture “success.” A position that

acquires a student is thus socially produced; it is “a product of cultural arrangements—a product of our own activities—as much as a product of isolated facts about the neurology, personality, language, or culture of any child” (McDermott & Varenne, 1995, p. 331). It is more about the settings students inhabit and the ongoing relations they experience in those environments than the habits they acquire.

To demonstrate how an ELL is never independent of the ways in which other social actors construct and express an interpretation of him or her, I emphasize the socially negotiated processes of schooling as the “relations among people in activity in, with, and arising from the socially and culturally structured world” (Lave & Wenger, 1991, p. 51). I do not examine by what means students acquire both a non-native language and a position in classroom discourse, but rather how the positions and the discourse acquire the student (Wolfe & Faltis, 1999). I move away from the question “Why can’t some students learn English?” to explore the school’s “institutionalized discourses and rituals” (Varenne & McDermott, 1998, p. 207), through which such a question gains purchase.

I am guided also by the work of Sutton and Levinson (2001), who define policy as “a complex social practice, an ongoing process of normative cultural production constituted by diverse actors across diverse social and institutional contexts” (p. 1). Policy is applied in particular ways in specific situations, and there is a ceaseless interaction in which the social actors, policy, and situations inform one another. In this way, the policy, the practices, the social actors, and the present definition of a situation in a certain setting mutually constitute the situation, the cultural phenomenon to be studied. Analyzing school policy as practice “link[s] the discursive practices of normative control” of the educational institution with the discursive practices of the larger collective and lays bare the ways in which “individuals and groups engage in situated behaviors that are both constrained and enabled by existing structures [while continuing to] exercise agency in emerging situations” (p. 3). To explore language acquisition policy as social practice, I examine the school’s “cultural texts,” such as learning objectives and standards that are recognized as officially or legally authorized. I also look at the negotiation, reorganization, and appropriation of these governing norms by delving into the interactions and practices in schools that reflexively develop and make “sense” of policy.

As this view suggests, policy can be quite incongruent at different levels of organization in educational institutions, and as an official policy moves across multiple settings in a school—and is appropriated by various social actors—it can, and often does, take on many forms. As noted by Quiroz (2001) in her study of bilingual science teachers:

Policies are typically developed at one institutional level (i.e. the federal government) and operationalized in ways that are often disconnected to the constituents whose educational opportunities they are designed to enhance. . . . Regardless of the intent of policymakers, the reality is that the lack of articulation between policymakers and policy practitioners results in activities that often look different to each set of actors at each level of implementation. (pp. 167–168)

I agree but note also that the practitioners are also policymakers, interpreting and appropriating policy in particular school settings. It is the interaction between policy, practitioners, and settings across a high school, embedded in a larger historical and political framework of a demographically changing coastal school district in northern California, that defines this study.

### **Situating the Study: Methodology and Setting**

The study emerged from the initial findings of a 4-year research project by Margaret Gibson and co-investigators that pointed to variability in the ways and contexts in which the “successes” and “failures” of ELLs were constructed and interpreted at Hillside High School (HHS).<sup>4</sup> Some of the site data in this paper hail from that larger comparative ethnographic study. As a member of Gibson’s research team, I collected data, via participant observation, for both the study that follows and the larger ethnographic research project over a continuous 4-month period in 2001 and again for shorter periods during the winter of 2001, the spring and fall of 2002, and the spring of 2003.

HHS, a comprehensive public high school located in the rolling hills above the northern California coast, draws students from two distinct communities, Hillside and Appleton. Hillside is a predominantly non-Hispanic White, middle- to upper-middle-class professional town where the median family income is \$73,515 (U.S. Census Bureau, 2002). Appleton is a mostly Mexican and Mexican American working-class agricultural town. The median family income for Appleton households is \$37,617, and the per-capita income of Latinos in Appleton is \$9,732 (U.S. Census Bureau).

HHS and Appleton High School are the only two comprehensive high schools in a large unified school district that serves over 19,000 students and is the fourth largest employer in the county, according to the school district Web site. Although the district buses 600 Appleton students per day to HHS, Appleton High, a school built for 1,500 students, houses over 3,000. HHS, with the additional students from Appleton, is also overcrowded, serving 1,900 students in a school designed for 1,200 (Gibson, Benítez, Hidalgo & Rolón, 2004, p. 132). In the fall of 1998, when the longitudinal study began, the ninth grade was nearly equally divided between non-Hispanic White students,

who comprised 44% of the class of 2002, and students of Mexican descent (both parents of Mexican origin), who made up 42% of the freshman class (Gibson et al.). Another 6% of the ninth-grade class had one parent of Mexican origin, and the remaining 8% were Asian American, African American, non-Mexican Hispanic–Latino, or of mixed ethnic descent (Gibson et al.).

Beyond differences in ethnicity and residential neighborhood, students from Appleton and Hillside vary dramatically in their socioeconomic backgrounds, previous life experiences, and daily routines. Eighty-one percent of the Mexican-descent students have two parents who emigrated from small towns in northern Mexico with limited educational opportunities (Gibson et al., 2004). As a result, more than half of the Mexican parents and more than half of the migrant parents attended school for 8 years or fewer. Contrastingly, 89% of the non-Hispanic White HHS students had at least one parent who had attended college (Gibson et al.). While many of the non-Hispanic White students live in affluence, most of the Mexican-descent students live near or below the poverty level. Over half of the Mexican-descent students receive free or reduced-price lunches (Gibson et al.).

Academically, the national pattern of low academic attainment among Mexican-origin students is reflected at HHS. Of the Mexican-descent students, only half were enrolled in college prep English classes, compared with most non-Hispanic White students, who were directly placed into college preparatory math and English. Only 20% of the Mexican-origin seniors graduating in 1996 had completed advanced math and science classes, compared with 74% of the non-Hispanic White seniors; only 15% of the Mexican-descent seniors had completed all high school courses required for admission to either of the California public university systems, compared with 52% of the non-Hispanic White seniors (Gibson et al., 2004).

Differences along cultural and ethnic lines extend beyond academics. In interviews, students and teachers indicated that ethnic tensions, including gang violence and physical fights between students of Mexican descent and other students, have diminished since the mid-1990s, but visible segregation of the two groups on campus and signs of covert racism remain. Institutionally, Mexican-descent students are underrepresented in schoolwide events, such as graduation, and are nearly nonexistent in extracurricular activities (e.g., athletics) and sanctioned associations (e.g., student government). Non-Hispanic White students tend to inhabit the main quad, and the Mexican-descent students congregate around one building, “Mexicanville,”<sup>5</sup> which houses, among other offices, the Migrant Education Program. Language is, in an associated way, also segregated; one walks across campus, hearing conversations predominantly in English near the quad and in Spanish or Spanglish near the edges of campus. Further, 60% of the non-Hispanic White students surveyed believed that Mexican-descent students would fit in at HHS better if they didn’t speak Spanish to each other (Gibson & Bejinez, 2002).

Conflicts over celebrating occasions or holidays also highlight the ethnic divisions. Only 16% of the non-Hispanic White students surveyed in 11th grade indicated that Cinco de Mayo and Mexican Independence Day should be celebrated at HHS (Gibson & Bejinez, 2002), and during convocations acknowledging or celebrating either holiday, physical and verbal altercations between non-Hispanic Whites and students of Mexican origin were observed. One Mexican-descent female described the overall atmosphere on May 5, 2001: “They [the non-Hispanic White students] were dying because we brought the Mexican flag over. Yeah, they were saying stuff to us and *estan ardidos* [They are full of anger].” In addition to single-event unrest, there are visible and enduring symbols of ethnic tensions on the HHS campus. Confederate flags, White Power notations, and racist remarks, including the juxtaposed statements “Mexicans suck” and “Whites suck more,” are engraved in the steel door of a student bathroom, and similar graffiti appears intermittently in common areas, such as the library bulletin boards.

### **Constructing the Limited English Proficient Position**

Federal laws mandate that schools within the United States must implement means by which “LEP students” are identified and assessed. Two pieces of federal legislation are particularly salient to examining language acquisition policy in California in general and at HHS in particular. In the Bilingual Education Act, the government set forth the legal definition for *LEP student* that is to be used to determine eligibility of students for bilingual education services or ELD programs (Improving America’s Schools Act of 1994, 1994). In sum, the federal definition of *LEP student* is one whose native language is a language other than English; who comes from a region where English is not dominant; or whose difficulty using English reduces his or her ability to learn in U.S. classrooms or participate fully in society (Improving America’s Schools Act of 1994). More prescriptive, the Improving America’s Schools Act requires that the educational policy of each state include content and performance standards for LEP students that are similar to those for other students; that “states develop or adopt a set of high quality, yearly assessments” based on the standards; and that states must demonstrate “adequate yearly progress,” as measured by the “aggregation of individual scores on assessments aligned with performance standards” (Improving America’s Schools Act of 1994, §1111).

Interpreting the federal legislation, California has developed explicit policy by which LEP students are identified, instructed, and evaluated. At the time of this study, schools across California were using a variety of assessments, including the reading achievement test Stanford Achievement Test, 9th ed. (SAT-9) (Harcourt Educational Measurement, 1997) to both identify and evaluate students’ language proficiency. Some, including HHS, were using

the CELDT for the first time. The CELDT is based on California's ELD standards adopted by the State Board of Education in 1999 and, like other English proficiency assessments, is designed to generate scores on a normal distribution for comparative purposes.<sup>6</sup> Students who score below the 50th percentile (an "average" mark) on the oral proficiency section of the CELDT will be designated as LEP students. Thus, as noted by Gándara (1997):

LEP students, independent of their absolute performance on the test will find it almost impossible to achieve this percentile—it would mean that they would have to perform better than half of all native English speaking children on whom the tests are normed. (p. v)

Further, students who score below the 36th percentile on the reading portion of the same test are also made LEP.

### **Taking the California English Language Development Test at Hillside**

At HHS, the procedure to identify a student with limited English proficiency varies depending on a student's previous school enrollment. Students new to the district are given a Home Language Survey, a one-page questionnaire designed by the school, to determine whether or not English is spoken in the home or if the student comes from a non-English-speaking background. If there is an indication on the survey that the student comes from such a background, then the student's English-language proficiency is measured by the use of the CELDT early in the school year. According to HHS's ELD teacher:

There's two ways [to be designated as LEP]. If they're coming in for the first time to the United States, the first thing we have to ask the parents and the students is what their home language is. If it's other than English, then that's, like, *red flag number one*. They need to be tested. [Emphasis added.]

On the other hand, the language proficiency of each freshman who has attended middle school in the district is, according to the district's policy, determined by reviewing previous language proficiency scores, grade point averages (GPAs), and teacher recommendations. The ELD teacher explained:

We still haven't quite articulated that process very well. . . . We have to get the teachers together and the BRTs [Bilingual Resource Teachers] together, and we get a big group together and we look at every student, student by student, and we look at their writing samples, their test scores, and GPA. So, ultimately it is a recommendation from the teacher and their GPA, where they are, their other classes, their



motivation. We look at their test scores, their [middle school] SAT-9s, and it's, like, a compilation of about five things, and then we determine what level they're going to be.

However, this process was not consistently applied. The middle school records for some students were incomplete, and other records were missing entirely. The teachers involved in reviewing the records often had conflicting schedules and reviewed the charts separately, providing notes for one another.

During this study, the 2001–2002 freshman students were not given recommendations prior to entering HHS, and there was no group review of their records. Instead, the 300 ninth graders who had, in middle school, been designated LEP were given the CELDT during the first 2 weeks of the school year at HHS. The teacher who taught a Specially Designed Academic Instruction in English (SDAIE) course suggested that the year's process of identifying and placing students was "just another example of misappropriation of the LEP policy that really creates a very faulty process." She expressed her frustration and concern:

We may say at Hillside High School: "Oh. O.K. Well, you know you can talk to me for 5 minutes. You are really proficient." Some other school might say: "O.K. You have to write this five-page essay, and then we'll know you are proficient." I don't think you do that, and I think that's really been a problem with the whole, with curriculum in general in this district, and especially ESL [English as a Second Language], ELD, ELL, whatever you want to call it now. But that has really, really been a weakness.

The ELD teacher, who co-organized the group reviews, associated the lack of consistency with the new assessment tool, the CELDT. Most of the members of the review group administered the CELDT in their schools. The time they would have spent reviewing records was replaced by the time they spent getting trained to give the CELDT. Still, the ELD teacher admitted that identifying LEP students did not often follow exact state or district policy before the CELDT, but asserted that despite the varied appropriation of the policy, the review committee did its best.

### The More You Write, the More Mistakes You Can Make

The ELD teacher and an assistant, neither of whom was bilingual, administered the CELDT, a three-part test to evaluate oral, reading, and writing skills, during the first 2 weeks of the school year. First, each student was taken out of a class to be tested individually on the listening and speaking portion. For 30 minutes, each student was asked increasingly complex questions in English, which he or she was instructed (in English) to answer in English. The session was audiotaped and graded by the ELD teacher. In my observations, many students were unable to answer the first five questions. They repeatedly

asked questions in Spanish about the meaning of questions and instructions. In 15 of the 30 sessions I observed, the student fell silent within the initial 10 minutes, but the tester asked all of the questions, as was mandated, before dismissing the student from the test. The ELD teacher noted: "I know. I know. That is demeaning to students—to make them listen to a whole string of questions they can't even answer."<sup>7</sup> Two students walked out of the testing room midway through the examination without answering a single question. One student refused to take the test and sat silently with his head on the desk for the 30 minutes while the assistant read the entire oral portion of the exam. These students scored 0's, and like many of their peers, who tried to answer the questions, ended up reifying their positions of "failure" constructed by the testing process itself.

The ELD teacher administered the written portion of the test to students during the second week of English classes. The teacher stressed, in English, that the test results would indicate their English-language proficiency and advised students that the test would be used to place them in classes. Giving directions, she repeatedly told the students to avoid making mistakes, suggesting that they use "safe" and "simple" sentences:

Please listen to directions. It really, really counts. Each is worth 3 points. If you make one itty, bitty mistake, I mean spelling, grammar, caps, anything, you lose a point. [Student groans.] So, think of similar words and substitute them if you don't know exactly, or are unsure about certain words. Make nice and simple sentences. One sentence each picture, only one sentence. The more you write, the more mistakes you can, might make. O.K., begin.

The reminder she wrote on the board reinforced her verbal directives: "Check for capitalization, punctuation, and spelling!" Prior to picking up the tests at the end of the period, she again reiterated the importance of checking their sentences to make sure they were structured simply.

Despite the teacher's emphasis, several students commented that the test didn't really matter. One said she could not understand why the teacher was being so serious about the test and another hypothesized that the students only had to take the test to show that they were not "illegal [immigrants] or something." Other students expressed skepticism about the relationship between test scores and class placements. Later, in an interview, a ninth-grade Mexican-descent male responded:

You know, it [the CELDT] doesn't really matter. I don't really, you know, think they put you in class or something on your score. They test us all the time in my last school. Test this. Test that. Test English, English, English all the time. I mean, like, all the time. . . . My classes? You know, I'm Mexican, and so I'll be with other Mexicans like them [pointing outside to a mixed-gender group of Mexican-descent students I knew to be his friends].

The students taking the CELDT recognized and accepted that taking tests of this sort (and other types of tests) was part of their schooling experience. Even though they questioned how or if the test results would be used, they did not question the institutional practices of sorting and testing, which had become, as the student pointed out, a common occurrence with predictable results. Like the “successful” junior high students described by Varenne, Goldman, and McDermott (1998), many of the students were seemingly not concerned about failing the test.

### ‘Self-Placement’

Some students, such as Hector and Alejandro, both ninth-grade LEP students who grew up in Appleton, revealed attitudes similar to what some teachers suspected about many Mexican-descent students. Hector, like Alejandro, preferred to take classes with his friends, who were other Mexican-descent students, and didn’t mind being in ELD classes as long as possible. When asked about class placement, Alejandro said that he did not try too hard on the tests and did not really do much work in class. In fact, he bragged that he was resisting the whole system by scoring so low.

While it is difficult to confirm or measure that Alejandro indeed engages in what is, to him, a successful technique of “placing himself” in lower level classes, according to the English 2 SDAIE teacher:

There are many students who “self-place” in SDAIE by doing marginally well on tests. They like the classes because they still get college prep credit but can stay with friends, and it is not as challenging—It is sheltered.

Specific accounts offered by the English 1 SDAIE teacher support the belief that students “choose to be with their friends [in SDAIE or ELD classes] rather than in English 1, where no other or very few students of Mexican-descent are.” Whether this practice exists systematically is not clear; however, what is salient is that both students and teachers recognize reasons—preference to take classes with friends and fear of speaking English in mainstream classes—why Mexican-descent students might choose to remain in less academically challenging (and less rewarding) classes.

Course placements and class schedule changes were not finalized until the fourth week of classes. Only 8 out of the 300 students taking the CELDT were assessed to be fluent English proficient (FEP), and none of them were enrolled in advanced placement or college preparation courses. This low percentage of “success” was, in part, reflective of the district’s decision to adhere to stricter measurements than required by the state policy. Rather than use only the CELDT scores, as prescribed by the state, the district superintendent, in an attempt to raise the academic standards across the district, required that SAT–9 scores and previous teacher evaluations be

examined. This decision—or appropriation of policy—made after the first day of school greatly restricted the number of students who were able to move from LEP to FEP, because their SAT-9 math scores fell below the 35th percentile. Thus, some of these students were unable to move out of the LEP position because of their perceived mathematics skills, not their English proficiency. This designation in turn restricted what classes, across subjects, the LEP students were allowed to take.

### **Teaching to the Limited English Proficient Position**

Students who “failed” the CELDT and to meet the district’s additional requirement became acquired by the LEP position and were placed, according to their scores, in one of three sequential levels of English classes for LEP students—ELD Beginning, ELD Intermediate, and ELD Advanced—as well as SDAIE classes across a variety of content areas. In accordance with California’s Assessment of Academic Achievement Act of 1999, performance standards that defined grade-level performance targets and represented desired proficiency levels determined much of the curricula in these courses (California Department of Education, n.d.). Yet while the California Performance Standards, as well as the learning objectives of the district and high school, were written for grade levels, the ELD levels and SDAIE classes did not correspond directly to grade level. In particular, the SDAIE classes, across subject matter, provided “sheltered instruction” with modified objectives designed to emphasize English-language acquisition and comprehensible subject-matter content. Learning objectives in SDAIE classes highlighted making concepts understandable to LEP students through the use of visuals, manipulations, and vocabulary development activities.

Further, the legal standards and the district’s benchmarks were notably subjective. For example, a student was said to have mastered a benchmark, such as comprehending common English-language idioms, only if he or she did so at least 80% of the time. The English 2 SDAIE teacher pointed out the difficulty in measuring “mastery.” She queried her fellow teachers: “100 or 80% of what? If we use 10 idioms in a quarter, should they get 8 of them?” According to the teacher’s interpretation of the standards, LEP students must reach a higher mark, in terms of academic achievement, than non-LEP students in order to pass. In no other part of language arts policy must a student score 80% on skills in order to move to the next class or grade. Thus, if not moving to the next level is “failure”—and in American education, including HHS, it is constructed in this way—then LEP students, by virtue of position and the language policy, are at greater risk of “failing,” in this regard, than are “English-only” and FEP students.

## English Language Development Classes

As delineated by the district’s language acquisition policy, oral language and listening skills were to be developed in ELD Beginning classes. In ELD Intermediate, a 2-period core course, focus was to be placed on the development of speaking and listening skills, and also on reading and writing in English. However, because of the limited enrollment of both beginning and intermediate ELD students, both levels of students were combined into one 2-period class.

To provide “level-appropriate” materials to the students, the teacher presented common lessons to all students but assigned separate assignments for the beginning and intermediate-level students. Often, the difference was in quantity only, and the intermediate students were required to do a combination of beginning assignments. To Fernanda, a student working at the intermediate level, the teacher commented: “Oh, you wrote a paragraph *and* a poem. Oh, yes, you are advanced [actually, this student was intermediate].” When asked about the differences in ELD levels, the female student responded: “I don’t know. [The more advanced levels involve] more work, I guess.” Moreover, when asked what level she would move to after passing the intermediate level, the student said, “Just more with [ELD teacher’s name] again.”

Later, in an interview, the student said that the beginning and intermediate class was just the school’s way of keeping students like herself in the ELD program: “We just keep changing around in class, like being beginning or intermediate or whatever, but it’s the same class, the same teacher, and the same stuff.” For this student, a ninth grader taking her second semester of the beginning and intermediate ELD class, there was no distinction in the amount of English proficiency required to complete class work at each level. The same attitude was expressed by half of the 16 students enrolled in the class who had taken ELD for more than 2 semesters (1 year), and also for the 3 students who had been enrolled in the combined ELD class for 4 or more consecutive semesters.

Just as it was difficult for me to discern which students had repeated the class and which students were “intermediate” learners, I was challenged to conclude whether or not they were ELLs—or if they were indeed learning English in the classroom. Some students seemed to indeed be proficient in English, and others rarely used English in class at all. The following excerpts from the beginning and intermediate ELD course show the ways in which the students and teachers utilized both Spanish and English:

ELD teacher: This is an important lesson. Think in Spanish.

David: *Examen importante* [Important test].

ELD teacher: In most languages, adjectives come after nouns, but in English, we’re a bit different, weird. . . .

ELD teacher: Guys, pay attention!  
 Hector: Why only guys?  
 ELD teacher: When I say guys, I mean everyone. How about “students”?  
 Jose: Yeah.  
 ELD teacher: Think in Spanish. Give me pronouns in Spanish first.  
 Jose: *Ella* [She].

Later, in the same lesson, which used “fill in the blank”:

ELD teacher: They want to eat. She “blank” to eat during lunch.  
 Roberto: Wants.  
 ELD teacher: Remember. Remember. You have to take turns.  
 Ed: *Ella quiere comer* [She wants to eat].  
 ELD teacher: Let’s think in English, not Spanish.

The following dialogue ensued after the teacher handed out a quiz:

Hector: [Looking at the quiz.] *¿Es estado* [Is it a state]?  
 ELD teacher: Think of a *ciudad* [city]. What is Porta Vallarta?  
 Eduvijes: *Puuuuuuuerta*, not Porta.  
 ELD teacher: [Looking at the quiz.] Oh, I see. Where you are now, *este momento* [this moment]. Your address! Not the school’s.  
*Como* [Like] if you were filling out a job application. . . .

As demonstrated in this exchange, both the students and the teacher code-switched between Spanish and English in the ELD classes, although throughout my fieldwork, Spanish was used more regularly in the ELD classroom. Hurd (2004), another investigator at HHS, noted the “students’ virtual nonuse of spoken English” in his observations of ELD classes, including the Advanced ELD class (p. 65).

Yet across the school, many students who spoke Spanish in their ELD class did not do so in other classes. This was likely related to individual students’ level of English proficiency, their comfort in speaking English, and their desire for privacy in conversations; however, particular restrictions and practices in certain classrooms also defined when Spanish was and was not spoken. For instance, in Reading Skills 1, the teacher discouraged the use of Spanish by students in his classrooms, saying that sometimes “they engage in social behavior that may not be appropriate. They revert to Spanish, and then I have to get them back again.”

Ronaldo, who spoke both Spanish and English in his ELD class, said that he was silent in other classes, where Spanish was not allowed, because of his embarrassment in speaking English; my observations of him in classes confirmed his comments. The English 1 SDAIE teacher also noted this phenomenon with her teacher’s aide, a Mexican-descent student who did not participate in his chemistry class. When asked about the class, the student

explained that he did not feel comfortable talking in that class, where he was the only student of Mexican descent. Such responses by students and teachers show the separation and maintenance of different worlds—“two separate high schools,” according to the teachers in the ELD program: the mainstream, “English-only” high school, and the ELLs’ school. They point also to the multiple sociocultural and linguistic borders LEP students would need to cross to enter mainstream classes.

Interestingly, on the other hand, I observed a handful of Mexican-descent males, who spoke very little English in their ELD class, speaking to one another in English outside of class. When asked about this, one of the students asserted that speaking English with his friends was “less dangerous” than in class, where he would be judged by the teacher and better English speakers. Another suggested that he did not need to speak Spanish all the time, but that he did so in class to confuse (“mess up”) the teacher. Such behavior may reflect resistance or a less oppositional form of “not-learning” as a strategy that, according to Kohl (1991), helps students “build a small safe world” that they control and in which they will not be judged (p. 20).

Most of HHS’s ELLs were in primarily, or exclusively, ELD and SDAIE classes. This created, in practice, a pattern of segregation, which concerned the teachers who taught English learners. Yet the HHS Reading Skills 2 teacher pointed to the difficulties in changing the overall pattern of segregation in classes:

There’s not any easy answer because we still divide the kids by their language need sometime during the day. Like, we put them in SDAIE classes. We put them in ELD classes. That’s great, and it gives them what they need academically, but it segregates them from part, from the rest of the population.

At HHS, being classified as LEP and placed into ELD and SDAIE classes restricted the students’ amount of contact with native English-speaking students, and more importantly, it created both physical and linguistic marginalization. This resonates with the findings of Valdés (2001), who points out that even students who are being taught entirely in English “have very little access to English” (p. 13) because of the segregation, in classes and across campus, from their English-speaking peers who are being rigorously prepared for college.

### **The (Non) Movement from Limited to Fluent English Proficiency**

In the state standards, the district benchmarks, and HHS learning objectives, there are explicit directives to transition ELLs to fluent proficiency. The district superintendent advocated for a redesignation process of 3 years,

but teachers and school administrators expressed skepticism about the timeline. The HHS Reading Skills 2 teacher expressed the concern held by many teachers:

Well, so many people in the district, especially high school teachers, were, like, in a state of panic because they were saying: "It says here [in the California standards] that we're supposed to be transitioning these kids to fluent English speaking in 3 years." That's absolutely impossible when you have someone moving here in their sophomore year in high school from Mexico, not speaking English at all and maybe not even all that literate in their primary language so people went into a state of panic. . . . It really is an 8-year process that begins with teaching some of these basics [listed in the CA standards].

Many of the California ELD–English Language Arts standards were based upon the myth that immigrant students, entering U.S. schools, were already literate in their native languages. According to the district's coordinator of ELD services:

The ELD standards are written with the assumption that the students . . . come in at grade level in their own language, and that is not our students. We should probably say we have this group of students that we can get to the end ("FEPed") in the 3 years, and then we have these other students who will go through this plan who we are not helping succeed. . . . For now, we are setting them up for failure.

Others, including the ELD teacher, expressed concerns about the practical and ideological basis of transitioning students to FEP status ("FEPing"): "It really isn't just about language proficiency, even though that's what FEPing is supposedly about, students learning English in a few year[s], and that fact will be a real wrench in the district's push to FEP, FEP, FEP."

However, during the study, there was an overarching statewide FEPing discourse and an ongoing appropriation of the process at HHS. Importantly, the statewide testing (and subsequent FEPing of students) was tied to a host of rewards and sanctions for schools, teachers, and students. In July 1999, the superintendent of public instruction, with approval of the State Board of Education, developed an Academic Performance Index (API) to measure performance of schools, especially the academic performance of pupils, and demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools (California Department of Education, 1999). As outlined in the legislation, the purpose of the API was to measure the academic performance and improvement of schools; a school's score or placement on the API was an indicator of a school's relative performance level.



Schools and teachers received API bonuses based on increased test scores, and new restrictions against social promotion meant that students who did not do well on the test would be held back (Gándara, 2000). The API incentive figured prominently in HHS memorandums and was addressed in numerous district and school meetings. It was linked with the new curricular standards and the statewide CELDT, and instituted in the same year Proposition 227 was enacted. Since students who perform lower on standardized tests are weighted heavier in the index, there is a greater reward for the improvement of LEP students.

In 2000, HHS scored well on the API indicator; teachers got a bonus, and the school received \$250,000.<sup>8</sup> Placing a monetary value on the evaluative processes by which students get FEPed clearly emphasized the merit of the FEP position. Achieving FEP was monetarily equated with some measure of success in policy, but throughout the FEPing process, students were repeatedly situated in positions of “failure.” And further, even for those who were FEPed, other possible positions of “failure” became available to them when they no longer received any academic support in Spanish.<sup>9</sup>

### **Summary and Conclusion**

Educational policy, in many ways, determines who becomes an “educated” person (Levinson & Sutton, 2001, p. 17), and language policy prescribes the schooling linguistic minorities receive. Through federal and California state legislation, two positions are possible for ELLs: Either a student is fluent (FEP) or limited (LEP) in his or her English proficiency. At HHS, 40% of the Mexican-descent students were determined to be LEP, to “fail” in their use and knowledge of English. And while the federal, state, and district language policies provided a process whereby students could move out of LEP positions to FEP positions, the physical and linguistic isolation, the standardized testing, and the curricula made it almost impossible to do so. Even students who challenged the identification and sorting process, by “self-placing” with friends or refusing to be tested, remained captured by the LEP position and its accompanying status of “failure.”

The ways in which HHS literally and metaphorically keeps ELLs at the “margins of institutional policy” (Baquedano-López, 2004, p. 228) and at the margins of the school are not unique. Throughout American schools, policy development for ELLs is informed by the continued debates over “who we [Americans] have been, who we are, and who we are to become as a nation and a people” (Beck & Allexaht-Snider, 2002, p. 37). Communicating in English has become one of the highest status identifications of the educated—of the successful American of immigrant ancestry. Yet what happens at HHS is just one example of how the positions available to ELLs across the United States are, more often than not, ones of “failure” according to the current policy.

Still, to devise specific changes in language policy—such as allowing more years for transition or providing more effective assessment accommodations—will not, in isolation, encourage different outcomes for most ELLs. The English proficiency (as well as native-language proficiency) of students designated as LEP differs greatly. Alterations in procedures and policy that may be appropriate for LEP students with fairly high levels of English use might not help those LEP students with lower proficiencies, and vice versa (Abedi, Hofstetter, & Lord, 2004, p. 17). Also, as shown in this study, depending on how the changes are appropriated across districts or within schools, they may or may not modify the daily classroom experiences of LEP students.

Broader changes—ones that challenge notions of “success” and “failure”—must occur. Social scientists and teachers must stop asking “Why can’t or don’t these ‘types’ of students learn English?” and question the ways in which American schooling, through its organization and structuring discourses and practices, creates differential positions for students to inhabit. We often fail to question the necessity of the sorting processes—the testing and evaluations—even when we question the efficacy of particular sorting tools. But as educational researchers, as policymakers of sorts, we can examine and confront the processes by which students become acquired by the limited positions we have constructed for them; but first we must accept that “success” and, perhaps more importantly, “failure” belong not to a particular student or “types” of students, but to the unfair institution of schooling, to the social actors who participate in them—and to culture (McDermott, 2002).

And we must recognize, despite all the positions of “failure” that culture can and does create in American schools, students accomplish a great many things. At HHS, many Mexican-descent LEP students were the first in their families to attend secondary education and, more specifically, to attend an American high school. Some will be the first to receive a high school diploma, and others will attend college. Most, if not all, of the students identified as LEP, I suggest, were learning some English—and, further, working hard at being students, despite being “trapped” in particular sociocultural positions.

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## Endnotes

<sup>1</sup> For thorough interrogations of Spanish–Hispanic–Latino and other classifications, see Romero, Hondagneu-Sotelo, and Ortiz (1997) and Valdés (1996). I view *Latino* as a racial–ethnic group rather than an ethnic group and choose to use the combined term of *Hispanic–Latino* for inclusiveness. However, I continue to find it less than satisfactory.

<sup>2</sup> Official policy refers to that generated and circulated in the government and emphasizes current political–operational needs. Imposition or adoption of an official policy, in this case, reifies the hierarchical relations in the school system. Through written and verbal communications generated in official places, the policy is circulated as the official message across multiple school contexts—and becomes maintained, negotiated, and sometimes, even temporarily, modified in a complex, cultural system.

<sup>3</sup> Although it is *Bilingual Research Journal* policy to use the term *ELL* wherever possible, we will use *LEP* if this an official designation applied to students.

<sup>4</sup> Names related to the field site are pseudonyms. Internally generated documents, when identified with the school, have also been given alternative titles and names.

<sup>5</sup> This is a common reference made by Anglo students and is also printed in an HHS newspaper article (“Students Practice Voluntary Segregation,” November/December 1998, Vol. 4, No. 2).

<sup>6</sup> However, there is much debate among teachers and researchers on the efficacy of standardized tests used in this manner, and there is little consensus among scholars regarding the nature of language proficiency measurements. Different language proficiency tests have been shown to generate a wide range of language classifications for the same students. Gándara and Merino (1994) found, in fact, the tests used in California were neither consistently administered nor adequately analyzed or interpreted in ways that would provide teachers with needed information about students’ proficiency in English.

<sup>7</sup> At the February 2002 meeting, California’s State Board of Education approved, among other amendments, the following change: “Include in the CELDT instrument ‘stop points’ at which the test will be terminated once it becomes obvious that a student is at the beginning level of English proficiency” (California Department of Education, 2002).

<sup>8</sup> In a personal communication with an HHS teacher on March 3, 2002, I was informed that because of California’s “budget crisis,” API funds are no longer available.

<sup>9</sup> The scholarly literature shows that newly arrived immigrant Hispanic–Latino students who enter American schools above sixth grade face particularly difficult challenges, including learning English. Oral proficiency takes 3 to 5 years to develop, under the best circumstances; academic English proficiency can take 4 to 7 years; and a rapid shift to English-only for LEP students can result in the loss of proficiency in the first language and lessened communication with family and community members.

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